

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

GRADIENT ENTERPRISES, INC.,

Plaintiff,

vs.

SKYPE TECHNOLOGIES S.A. and SKYPE, INC.,

Defendants.

NOTICE OF MOTION

Civ. Action No.: 10-CV-6712 (DGL)

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law in support of Plaintiff Gradient Enterprises, Inc.'s motion to dismiss, dated May 17, 2012, the Declaration of Donald W. O'Brien, Jr., Esq., dated May 17, 2012, and the pleadings in this action, the undersigned will move this Court at a time and date to be set at the Court's convenience for an order, pursuant to Fed. R. Civ. P. 12(b)(6), dismissing the counterclaim of Defendants, Skype Technologies S.A. and Skype, Inc., in its entirety for failure to state a claim upon which relief can be granted, together with such other and further relief as the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Rule 7(a)(1), Plaintiff reserves the right to file and serve reply papers.

DATED: May 17, 2012
Rochester, New York

WOODS OVIATT GILMAN LLP

By: 

Donald W. O'Brien, Jr., Esq.
Attorneys for Plaintiff
700 Crossroads Building
2 State Street
Rochester, New York 14614
585.987.2800
dobrien@woodsoviatt.com

TO: KASOWITZ, BENSON, TORRES & FRIEDMAN LLP
Attorneys for Defendants
Michael B. Eisenberg, Esq.
1633 Broadway
New York, New York 10019
212.506.1834
MEisenberg@kasowitz.com